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The standard for anticipation is set forth in MPEP 2131, which states, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

The Examiner's clarification of the interpretation of the called and calling parties is appreciated, especially since Applicants arguments are based on a proper interpretation of the terms "called party" and "calling party."

The Examiner asserts that Miyao teaches an ATM switched network system for transporting IP packets from a calling party, one of terminals 101-106, to a called party, another of terminals 101-106, with the claimed calling and called terminals as one of the servers 161-163. 05, 104) to a called terminal (106, 101-103) in the form of ATM cells, both terminals having IP and ATM capability. Applicants respectfully disagree with the Examiner for the reasons set forth below.

Regarding claim 1

Claim 1 is repeated here for the Examiner's convenience.

1. A method of providing quality of service in an Internet Protocol (IP) telephony session between a calling party and a called party, which comprises the steps of:

transporting IP media for said session between said calling party and a first device having IP capability and ATM capability;

transporting IP media for said session between said called party and a second device having IP capability and ATM capability; and

establishing an ATM virtual circuit for said session between said first device and said second device.

Note that claim 1 requires transporting IP media for an IP telephony session between a calling party to a first device, and between a called party and a second device. The telephony session is established as an ATM virtual circuit between the first and second devices. The crux of Applicants' argument is that Miyao et al. does not and cannot disclose all of the elements of the claimed invention because Miyao et al. is only concerned with the transmitting data between the first device and the second device via an ATM network. The calling party and called party, as those terms are used in the specification of the present application, are not present in Miyao et al. Since the Examiner appears to be unclear on this point, and Applicants did not specifically address this point in their response to the previous office action, Applicants will now explain in detail why the present invention claims elements not disclosed in the reference.

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A telephony session is known to those skilled in the art as a full duplex voice session between users. An example of a telephony session is the attorney for the applicants calling the Examiner to discuss the case. The www.commweb.com web site provides the following definition of telephony: "The science of converting sound into electrical signals, transmitting it within cables or via radio and reconverting it back into sound. It refers to the telephone industry in general." Whether using the POTS (plain old telephone system) or a data packet switching system, there is a session established between the two users. Ordinary data packets, if delayed en route or at the final destination, can be reassembled in the proper order once all the data packets have arrived. This is not true of a full duplex voice session unless significant quality of service degradation is tolerated. This is an aspect of the present invention that the Examiner has not heretofore appreciated. The present invention provides full duplex packet voice transmission over an ATM network. Miyao et al. does not. A LAN terminal group is not and cannot be a "calling party" or a "called party" as those terms are used in the claims of the present invention, because the claims explicitly refer to establishing a "telephony session."

Transmitting voice over a digital network in the form of data packets requires a session to be established between the calling party and the called party, i.e., the users. The specification defines the telephony session initiation only in terms of audio. See page 6, lines 15-16 ("specifying an audio destination"); page 6, line 19 ("Message 39 specifies the audio destination for the session"); page 7, line 15 ("The OK response identifies the audio destination"); page 8, line 16 ("audio destination"); and page 8, line 19 ("audio destination for the session"). Also please note page 7, lines 21-22, where the specification states that the user clients are "unaware" that their telephony session is carried on an ATM switched virtual circuit. This phrasing certainly implies that the users are thinking beings, as with the users on either end of a voice call, and not a LAN terminal group. Simply put, a LAN terminal group does not fit the plain meaning either of the words themselves or as used in the specification of a calling party or a called party.

The standard for anticipation which requires that each and every element be found in a single prior art disclosure is therefore not met, because the reference does not disclose a called party, a calling party, or a telephony session, let alone an IP telephony session. Thus, the elements of the calling party and the called party are not disclosed in the reference. Miyao et al. does not disclose the IP telephony session, Miyao et al. does not disclose either a

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calling party or a called party, and Miyao et al. does not disclose transporting any media between the calling party and the first device. Miyao et al. simply discloses transporting IP packets between the first device and the second device in the form of ATM cells. The first step of claim 1 is therefore not disclosed in Miyao et al.

In similar fashion and for the same reasons, the second step of claim 1 is not disclosed in Miyao et al. Miyao et al. does not disclose transporting IP media for the IP telephony session between the called party and the second device. The fact that Miyao et al. discloses an ATM network that could transport IP media does not mean that Miyao et al. discloses a calling party, a called party, or an IP telephony session as claimed. Thus the second step of claim 1 is also not taught by Miyao et al.

In addition to not teaching the first and second steps of claim 1, Miyao et al. does not teach the third step, that is, establishing an ATM virtual circuit for the IP telephony session, because, as explained above, Miyao et al. does not disclose an IP telephony session. In other words, Miyao et al. does not disclose, teach, or suggest the establishment of a full duplex voice connection using packet switching.

Therefore, it is respectfully suggested that the rejection of claim 1 for anticipation is overcome. Dependent claims 2-4, being dependent upon and further limiting independent claim 1, should also be allowable for that reason, as well as for the additional recitations they contain.

Regarding claim 5

Claim 5 is repeated here for the Examiner's convenience.

5. A method of providing quality of service in an IP telephony session between a calling party and a called party, which comprises the steps of:

assigning a temporary IP proxy address for said called party for said session at a first access control manager;

assigning a temporary IP proxy address for said calling party for said session at a second access control manager; and

establishing a switched virtual circuit for said session between said first access control manager and said second access control manager.

The entire discussion with respect to the IP telephony session of claim 1 not being disclosed in Miyao et al. is equally relevant to claim 5. Miyao et al. simply does not disclose the element of establishing a circuit for an IP telephony session as recited in claim 5, nor does

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it disclose the concept of a calling party and a called party as those terms are known to one skilled in the art, based on both the field of art and the specification.

Therefore, it is respectfully suggested that the rejection of claim 5 for anticipation is overcome. Dependent claims 6-11, being dependent upon and further limiting independent claim 5, should also be allowable for that reason, as well as for the additional recitations they contain.

Regarding claims 12 and 20

The Examiner does not engage in any analysis of these claims other than to state that their limitations closely parallel the limitations addressed in connection with the earlier claims 1-11. Applicants agree, and specifically Applicants believe that the limitations of independent claims 12 and 20 include many of the limitations found in claims 1 and 5, which are lacking in Miyao et al. as discussed above. Specifically, claim 12 calls for an **IP telephony session** by assigning a temporary IP proxy address for the **calling party** at the second access control manager and assigning a temporary IP proxy address for the **called party** at the first access control manager, which is the reverse of what Miyao et al. discloses. Claim 20 calls for an **IP telephony session** between a **calling party** and a **called party**, which is not the case in Miyao et al. Thus, claims 12 and 20 contain elements not disclosed in Miyao et al.

Therefore, it is respectfully suggested that the rejection of claims 12 and 20 for anticipation is overcome. Dependent claims 13-19 and 21-24, being dependent upon and further limiting independent claims 12 and 20, respectively, should also be allowable for that reason, as well as for the additional recitations they contain.

Applicants respectfully request reconsideration of the rejection of claims 1-24 under 35 U.S.C. § 102(e) in view of the above remarks.

Conclusion

Based upon the above remarks and papers of record, Applicants believe the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicants respectfully request reconsideration of the pending claims 1-24 and a prompt Notice of Allowance thereon.

Applicants believe that no extension of time is necessary to make this Response timely. Should Applicants be in error, Applicants respectfully request that the Office grant

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such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 50-0289.

Please direct any questions or comments to Christopher R. Pastel at (607) 256-7330.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP

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